



March 25, 2009

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## ENGROSSED HOUSE BILL No. 1381

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DIGEST OF HB 1381 (Updated March 23, 2009 11:19 am - DI 14)

**Citations Affected:** IC 14-26.

**Synopsis:** Shoreline permits and enforcement of judgments. Allows the natural resources commission to adopt rules under which certain permits will expire more than two years after they are issued. Allows the determination made in the mediation by the department of natural resources of a dispute among persons with competing riparian interests to be enforced in a civil proceeding.

**Effective:** July 1, 2009.

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**Dodge, Dembowski, Bischoff**

(SENATE SPONSORS — STUTZMAN, MISHLER, LEWIS)

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January 13, 2009, read first time and referred to Committee on Natural Resources.  
February 9, 2009, reported — Do Pass.  
February 12, 2009, read second time, ordered engrossed. Engrossed.  
February 17, 2009, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 19, 2009, read first time and referred to Committee on Natural Resources.  
March 24, 2009, reported favorably — Do Pass.

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EH 1381—LS 7057/DI 77+



March 25, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1381

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A BILL FOR AN ACT to amend the Indiana Code concerning  
natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 14-26-2-17 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a) Subject to**  
3 **subsection (b)**, a permit issued under this chapter expires two (2) years  
4 after the permit is issued.

5 **(b) The commission may adopt rules under IC 4-22-2 providing**  
6 **that a type of permit specified in the rules expires more than two**  
7 **(2) years after it is issued.**

8 SECTION 2. IC 14-26-2-23, AS AMENDED BY P.L.6-2008,  
9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2009]: Sec. 23. (a) Unless a person obtains a permit from the  
11 department under this section and conducts the activities according to  
12 the terms of the permit, a person may not conduct the following  
13 activities:

14 (1) Over, along, or lakeward of the shoreline or water line of a  
15 public freshwater lake:  
16 (A) excavate;  
17 (B) place fill; or

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- 1 (C) place, modify, or repair a temporary or permanent  
2 structure.
- 3 (2) Construct a wall whose lowest point would be:  
4 (A) below the elevation of the shoreline or water line; and  
5 (B) within ten (10) feet landward of the shoreline or water line,  
6 as measured perpendicularly from the shoreline or water line;  
7 of a public freshwater lake.
- 8 (3) Change the water level, area, or depth of a public freshwater  
9 lake or the location of the shoreline or water line.
- 10 (b) An application for a permit for an activity described in  
11 subsection (a) must be accompanied by the following:
- 12 (1) A nonrefundable fee of one hundred dollars (\$100).  
13 (2) A project plan that provides the department with sufficient  
14 information concerning the proposed excavation, fill, temporary  
15 structure, or permanent structure.
- 16 (3) A written acknowledgment from the landowner that any  
17 additional water area created under the project plan is part of the  
18 public freshwater lake and is dedicated to the general public use  
19 with the public rights described in section 5 of this chapter.
- 20 (c) The department may issue a permit after investigating the merits  
21 of the application. In determining the merits of the application, the  
22 department may consider any factor, including cumulative effects of  
23 the proposed activity upon the following:
- 24 (1) The shoreline, water line, or bed of the public freshwater lake.  
25 (2) The fish, wildlife, or botanical resources.  
26 (3) The public rights described in section 5 of this chapter.  
27 (4) The management of watercraft operations under IC 14-15.  
28 (5) The interests of a landowner having property rights abutting  
29 the public freshwater lake or rights to access the public freshwater  
30 lake.
- 31 (d) A contractor or agent of the landowner who engages in an  
32 activity described in subsection (a)(1), (a)(2), or (a)(3) must comply  
33 with the terms of a permit issued under this section.
- 34 (e) The commission shall adopt rules under IC 4-22-2 to do the  
35 following:
- 36 (1) Assist in the administration of this chapter.  
37 (2) Provide objective standards for issuing permits under this  
38 section, including standards for the configuration of piers, boat  
39 stations, platforms, and similar structures. The standards:  
40 (A) may provide for a common use if the standard is needed to  
41 accommodate the interests of landowners having property  
42 rights abutting the public freshwater lake or rights to access

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the public freshwater lake; and

(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among persons with competing interests or between a person and the department. A rule adopted under this subsection must provide that:

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

**(f) After:**

**(1) a final agency action in a mediation under subsection (e)(3) that makes a determination of a dispute among persons with competing riparian interests; and**

**(2) the completion of judicial review or the expiration of the opportunity for judicial review;**

**a party to the dispute may seek enforcement of the determination in a civil proceeding. The remedy provided under this subsection is supplemental to any other legal remedy of the party.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1381, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BISCHOFF, Chair

Committee Vote: yeas 9, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred House Bill No. 1381, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1381 as printed February 10, 2009.)

MISHLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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